IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

Crl.MC.No. 3073 of 2006()

[CMP NO.8225/06 OF J.F.C.M.-III, PUNALUR]
CRIME NO.393/06 OF KUNNICODE POLICE STATION]

PETITIONER: DEFACTO-COMPLAINANT

K.SURESH BABU, S/O.KRISHNA PILLAI,
`KOODARAM', NEAR KUNNICODE JUNCTION,
AAVANEESHWARAM MURI, VILAKKUDI VILLAGE.

BY ADV. SRI.P.VIJAYA BHANU

RESPONDENTS: ACCUSES NOS.1 & 2-STATE

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1. KRISHNASWAMI CHETTIYAR,
S/O.MUTHUSWAMI, ARUNALAYAM VEEDU,
PULIMUKKU, AVANEESHWARAM MURI, VILAKKUDI VILLAGE.

2. ANSARI, S/O.MUHAMMED KUNJU,
THAVAKKALVEEDU, KURAMCADU, PULIMUKKU,
AVANEESHWARAM MURI, VILAKKUDI VILLAGE.

3. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 06/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3073 of 2006

Dated this the 6th day of December 2006

O R D E R

The petitioner is the brother-in-law of a deceased person who committed suicide. The allegations were raised against the accused persons/respondents herein that they had abetted the commitment of suicide. The accused persons came to this court and as per the directions of this court in Annexure B order surrendered before the learned Magistrate and sought bail. The learned Magistrate, by Annexure C order, granted bail to both the accused persons/respondents herein. The petitioner claims to be aggrieved by the impugned order. The learned Magistrate did not exercise his jurisdiction under Section 437 Cr.P.C properly, it is contended. The order granting bail may hence be set aside by invoking the powers under Section 482 Cr.P.C. This, in short, is the prayer.

2. The learned counsel for the respondents/accused persons submits that the learned Magistrate was eminently justified in granting bail to the accused persons/respondents. The crux of the allegations is that the deceased, in his capacity as Secretary of a Samithi constituted had undertaken certain items of work on behalf of the public and there was criticism levelled against him that there was

improper and dishonest discharge of duties as its Secretary. Unable to stand the trauma of such allegations against him, the deceased is alleged to have committed suicide. The accused persons have allegedly sent some letters also to the deceased criticising him which allegedly triggered of the suicide ultimately.

3. The learned Magistrate appears to have written a fairly detailed order. The learned Magistrate came to the ultimate conclusion that the accused are entitled to grant of bail. The said finding is challenged but I find no merit whatsoever in that challenge. Invoking powers of this court under Section 482 Cr.P.C or invoking the powers to cancel bail under Section 439(2) Cr.P.C, I do not find any circumstances to interfere with the order granting bail. The criticisms against the learned Magistrate for having made observations on merits is again not justified as the learned Magistrate is bound to consider the application for bail on merits. Persons accused of offences triable exclusively by the court of Sessions had surrendered before the learned Magistrate and therefore the learned Magistrate had carefully adverted to all the relevant facts before holding that the accused persons are entitled for grant of bail. The detailed consideration undertaken by the learned Magistrate cannot, certainly be faulted. However, I am satisfied that it can be observed

that the observations made therein should not weigh with the learned Magistrate at later stages when he is called upon to decide this case on merits on the basis of available evidence.

4. With the above observations, this Criminal Miscellaneous Case is dismissed.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006